FILED PARRA VICTOR 1 CDC No. P-58682 2008 JUL II AM II: 29 P.O. Box. 799002 CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA 3 San Diego CA.92179 5 **NUNC PRO TUNC** JUL -9 2008 UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA 10 Case No. 08CV0191 H CAB VICTOR PARRA JR., 11 NOTICE OF MOTION FOR ENLARGEMENT Plaintif, 12 OF, TIME LIMIT FOR SERVICE PURSUANTO FED. R. CIV. P. 4 (m) 13 R.HERNANDEZ, et al., 14 Defendants 15 16 COMES NOW PLAINTIFF Victor Parra Jr. In prose. 17 Please take notice that plaintiff will move the Court for an 18 enlargement of time beyond the 120 days prescrived by Rule 46m) of 19 Fed. R. Civ. P. 20 On March 13,2008 this Cour issued a summons to be served on 21 6 defendants. Service has been partially completed. Plaintiff now seets 22 additional time to complete service. **2**3 24 Respectively Submittee Dated; July 1,2008 **2**5 Victor Parra 26 In prose 27 28

Document 17

Filed 07/11/2008

Page 1 of 6

Case 3:08-cv-00191-H-CAB

## STATE OF CALIFORNIA COUNTY OF SAN DIEGO

Case No. 08CV0191 H CAB

		•		
	(C.C.P. SEC.4	46 & 201.5; 28 U.	S.C. SEC. 1746)	
THAT: I AM TH I HAVE READ T TRUE OF MY O	ictor Parra Tr E Plaintiff	IN THE S AND KNOW THE CO S TO MATTERS STAT	DECLARE UNDER PENALTY O E ABOVE ENTITLED ACTION; ONTENTS THEREOF AND THE FED THEREIN UPON INFORMA	SAME IS
EXECUTED TO	HIS	DAY OF: JU	2008 AT K	JD Corr.
		(SIGNATURE)	/// CONFOUND (DECLARANTIPRISON	IER)
	PROOF	OF SERVIC	CE BY MAIL	
	(C.C.P. SEC.101	3 (a) & 2015.5; 2	28 U.S.C. SEC.1746)	*-
. 1/2	tor Parra Ir	M A RESIDENT OF E	Cichard J. Donevan Corv	rectional facility
S. a.A. Dieno County S	STATE OF CALIFORNIA. I AM	A OVER THE AGE OF	EIGHTEEN (18) YEARS OF AGE N ADDRESS IS: P.O. BOX , 7996	E AND AM /4
	July 1	O So rannium mir	Transconia Notice	of Motion
on For Enlar	convert of time Limit	Co iservedith For scruice i	e foregoing: Notice of	12 4(m)
			3.	
	(SET FORTH EX	ACT TITLE OF DO	CUMENTS SERVED)	
WITH POSTAGE	E THEREON FULLY PAID, IN	THE UNITED STATES	EOF, ENCLOSED IN A SEALED SMAIL, IN A DEPOSIT BOX SO	PROVIDED
United State	District Court	Defuty	Attorner Eereral Vest A. Street, suite 1100	a .
Southern listric	or carrowriz	. Can	(1290 CA, 92/01	,
	+ Street, Suite 429		300, 82236	
San Viego	CA.92101-8960	_	Diego cA. 92186-526	6
		,		C
REGULAR COM	MUNICATION BY MAIL BET	WEEN THE PLACE O	E PLACE SO ADDRESSED, AND OF MAILING AND THE PLACE S FOREGOING IS TRUE AND CO	O ADDRESSED.
DATE: 70	1 4,000	•	Victor Parratr	
DATE		• •	(DECLADANTIDUICAN	CDI

 $Q_{\zeta}$ 

Case 3:08-cv-00191-H-CAB Document 17 Filed 07/11/2008 Page 3 of 6 PAREA VICTOR JR. 1 CDC No. P-58682 2 P.O. Box. 799002 3 Sar Lieao CA. 92179 Introse 5 6 UNTTED STATES DISTRICT COURT .8 SOUTHERN DISTRICT OF CALIFORNIA 9 10 Case No. 08CV0191 H CAB VICTOR PARRAJK, 11 Plaintiff MOTION FOR ENLARGEMENT OF 12 TIME LIMIT FOR SERVICE PURSUANT TO FEEL. R. CIV. P. 4(m) 13 R. HERNANDEZ, et al., 14 Defendants 15 16 On March 13, 2008 The Court issue a Summors to be 17 served on detendants. 18 There are six defendants in this case, detendants A.L. Cota and 19 The Department of Corrections have not been served. 20 On June 1,2008. Plaintiff sent the summons and complain to 21 the U.S. Marshal requesting service to the remaining defendants. 22 Request for Enlargement of Time 23 Federal Rules of Civil Procedure 4 Cm) provides that; 24 If service of the summons and complaint is not made upon a detendant 25 within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action 26 without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate 27 period ... (Id). 28

10

14

18

The Summons and Complaint are supposed to be served within 120 days ofter the complaint is fied (Rule 46m)) In forma pauperis complaints are not actually filed when the clerk receives them, they are filed after (IFP) status is granted 28 U.S.C. Section 1915 (a). And party proceeding prose and IFP must wait for court-appointed service by U.S. Marshal, 28 U.S.C.A. Section 1915 (c) Lindsey V. United States E.E. Ret. Bd., 101 F.3d 444, 447-48 (5th. ar. 1996) The Clerk of the Cour signed and sealed the survious on March 13,2008. Any extention shall be granted only upon good cause shown . see Fed. R. Civl. 4 mound ocat Rule 4.1 (a)

Minimally good cause requires a showing of excusable neglect, good to the and reasonable basis, beyond the plaintiffs control for failing to comply with the rules Inre sheehan, 253 F.3d 507, 5/2 (9th Cir. 2001) (to quality for "good cause", plaintitt may be required to show that (a) defendant received actual notice of the lowsuit (b) defendant would not suffer prejudice; and (c) plaintiff would be severely prejudice if lawsuit were dismissed); This standard isordinarily applied narrowly to protect only those litigants who have exercised meticulous care in attempting 17 to complete service. Hamilton V. Endell, 95/ F. 2d 1062, 1065 (97/ Cir. 1992)

Ordinarily, pro se litigants for whom the United States Morshal's Service may be directed to serve process will be granted a "good cause" extention of the 120 day period where a delay inservice is attributable to the Marshalf service Puett V. Blandford, 912 F.2d 270, 275 (9th Cir. 1990) Scott V. Reno, 902 F. Supp 1190, 1196 n. 4 (C.D. Cal. 1995).

Defendants Cota and Department of Corrections required a second attempt of service to different addresses. The second request for service was sent to the U.S. Marshaf on June 1,2008 Additionally since the California Department of Corrections is a state Agency personal delivery of the Summons and Complaint may be required. Fed.R. Civ. P. 4(i) (Q).

27 28

**2**3

Case 3:08-cv-00191-H-CAB Page 5 of 6 Filed 07/11/2008 Document 17 Good Cause appearing plaintiff respectfully ask's the court to fashion a schedule to complete service on the remaining two defendants. And growt the Enlargement of time: Dares July 1,2008 Respectfully Surmitted Victor Parra In pro se 3 5 6 

## STATE OF CALIFORNIA | Case No. 08 CVO(91 H CAB) COUNTY OF SAN DIFER

-	
	(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)
	(C.C.1. 5EC. 770 & 201.5, 20 0.5.0. 520. 17 10)
	I, Victor Parra DECLARE UNDER PENALTY OF PERJURY THAT: LAM THE Plaintit IN THE ABOVE ENTITLED ACTION;
	THAT: I AM THE Positive IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS
	TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND
	BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.
	$\mathcal{T}_{\mathcal{A}}$
	DAY OF: 20 08 AT RICYOR T.
	PONOVEY: PO BOX GOODD, SON EIRO CA. 92/79
	The horas of the son of the first of the fir
	(SIGNATURE) Victor Parva.
	(DECLARANTIPRISONER)
	PROOF OF SERVICE BY MAIL
	(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)
	(C.C.F. SEC.1015 (a) & 2010.0, 20 0.0.C. OEC.1740)
	I, VICTOTIONIA AM A RESIDENT OF CICAGO OF CONTROL OF AND AN ANGEL
	I, Victor Porry AM A RESIDENT OF Richard To Corn. Fac. San Diego Court Y, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX
	A PARTI OF THE ABOVE-ENTITLES MOTION. MIT STATES THE STATES OF THE ABOVE-ENTITLES MOTION.
	ON W/ 2008 I SERVED THE FOREGOING: MOTION TOV
	ON WHY 1 2008 I SERVED THE FOREGOING: Motion For Enlargement of, time limit for service pursuant to Fed. E. CIV. +, 4 (m)
	Intorgenerator, time finition service poison to see so
	(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)
	ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S). WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED
	AT RICHARD TO DESTOVER CORN FOC. N.C. BOX. =99002, San Diego CA. 92179
	To the Clerk) - Sylvie P. Snyder
Uni	Lo the Clerk)  Sylvie P. Snyder  Ped States District Court  Peputy Attorney General  No west A. Street. Suite 1000
Sbut	Petri District of California unit distret Culterino
8,	SO Front Street, Suite 4390 San Diego CA. 92101
7	ap Diego CA. 92101-8900 P.O. Box. 55266
	San Siego CA.92186-5266
	THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS
	REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.
	I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.
	DATE: July 1,2008 Victor Marra
	(DECLARANTIPRISONER)